

AMENDED IN ASSEMBLY MAY 1, 2014  
AMENDED IN ASSEMBLY MARCH 20, 2014  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1756**

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**Introduced by Assembly Member Skinner**  
**(Coauthors: Assembly Members Brown, Jones-Sawyer, and Weber)**

February 14, 2014

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An act to amend Section 1203.45 of the Penal Code, and to amend Sections ~~781~~ and *Section* 903.3 of the Welfare and Institutions Code, relating to court records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1756, as amended, Skinner. Court records: sealing and destruction.

(1) Existing law authorizes a person to petition the court for an order sealing the record of conviction and other official records in a case in which that person was under 18 years of age at the time of commission of a misdemeanor and is eligible for, or has previously received, specified relief. Existing law authorizes that person to be required to reimburse the court, the county, or any city for the actual cost of services rendered, as specified.

This bill would only make persons 26 years of age or older liable to reimburse the court, the county, or any city for the cost of services.

~~(2) Existing law authorizes, except as specified, in a case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in a case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to a specified provision of law, or in a case in which a~~

minor is taken before an officer of a law enforcement agency, the person or the county probation officer to petition the court for the sealing of arrest records and records relating to the person's case in the custody of the juvenile court and the probation officer and any other agencies, including law enforcement agencies and public officials as the petitioner alleges to have custody of the records. Existing law authorizes the petition to be filed 5 years or more after the jurisdiction of the juvenile court has terminated or, if no petition was filed, 5 years or more after the person was cited to appear before a probation officer or was taken before a probation officer or law enforcement officer, or, in any case, at any time after the person reaches 18 years of age. Existing law also requires, except as provided, the court to order the juvenile court records sealed pursuant to these provisions destroyed, as specified, and authorizes other agencies in possession of sealed records to destroy the records 5 years after the record was ordered sealed.

This bill would instead require a court to, at the time the jurisdiction of the juvenile court has terminated as to the person, order all records, papers, and exhibits in the person's case in the custody of the juvenile court and other agencies, entities, and officials sealed and destroyed. This bill would retain the prohibition in existing law prohibiting a court from ordering the person's records sealed in any case in which the person has been found by the juvenile court to have committed any specified offenses when he or she had attained 14 years of age and prohibiting records from being destroyed if the subject of the record is found to be a within the jurisdiction of the juvenile court because of the commission of the same specified offenses when he or she was 14 years of age or older. The bill would, in any case in which a petition is not filed with the court, require the probation department or law enforcement agency to seal all records, as specified, at the time at which the decision was made to not refer the person to the probation department or the district attorney's office, and to destroy those records when the person who is the subject of the record reaches 18 years of age. The bill would also make conforming changes:

*Existing*

(2) *Existing* law makes a father, mother, spouse, or other person liable for the support of a minor person, the person himself or herself if he or she is an adult, or the estates of those persons, unless indigent, liable for the cost to the county and court for any investigation related to the sealing and for the sealing of any juvenile court or arrest records pursuant to the above-mentioned provisions. Existing law also authorizes

those persons to be required to reimburse the court, county, or a city for the actual cost of services rendered, as specified.

This bill would only require persons 26 years of age or older who petitions for an order sealing his or her record, pursuant to specified provisions, to be liable for the investigative costs and to reimburse the costs of services rendered.

(3) By permitting certain persons to receive services from local agencies free of charge, the bill would increase the level of service provided by those local agencies, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1203.45 of the Penal Code is amended  
2 to read:  
3 1203.45. (a) In a case in which a person was under 18 years  
4 of age at the time of commission of a misdemeanor and is eligible  
5 for, or has previously received, the relief provided by Section  
6 1203.4 or 1203.4a, that person, in a proceeding under Section  
7 1203.4 or 1203.4a, or a separate proceeding, may petition the court  
8 for an order sealing the record of conviction and other official  
9 records in the case, including records of arrests resulting in the  
10 criminal proceeding and records relating to other offenses charged  
11 in the accusatory pleading, whether the defendant was acquitted  
12 or charges were dismissed. If the court finds that the person was  
13 under 18 years of age at the time of the commission of the  
14 misdemeanor, and is eligible for relief under Section 1203.4 or  
15 1203.4a or has previously received that relief, it may issue its order  
16 granting the relief prayed for. Thereafter the conviction, arrest, or  
17 other proceeding shall be deemed not to have occurred, and the

1 petitioner may answer accordingly any question relating to their  
2 occurrence.

3 (b) This section applies to convictions that occurred before, as  
4 well as those that occur after, the effective date of this section.

5 (c) This section shall not apply to offenses for which registration  
6 is required under Section 290, to violations of Division 10  
7 (commencing with Section 11000) of the Health and Safety Code,  
8 or to misdemeanor violations of the Vehicle Code relating to  
9 operation of a vehicle or of a local ordinance relating to operation,  
10 standing, stopping, or parking of a motor vehicle.

11 (d) This section does not apply to a person convicted of more  
12 than one offense, whether the second or additional convictions  
13 occurred in the same action in which the conviction as to which  
14 relief is sought occurred or in another action, except in the  
15 following cases:

16 (1) One of the offenses includes the other or others.

17 (2) The other conviction or convictions were for the following:

18 (A) Misdemeanor violations of Chapters 1 (commencing with  
19 Section 21000) to 9 (commencing with Section 22500), inclusive,  
20 Chapter 12 (commencing with Section 23100), or Chapter 13  
21 (commencing with Section 23250) of Division 11 of the Vehicle  
22 Code, other than Section 23103, 23104, 23105, 23152, 23153, or  
23 23220.

24 (B) Violation of a local ordinance relating to the operation,  
25 stopping, standing, or parking of a motor vehicle.

26 (3) The other conviction or convictions consisted of any  
27 combination of paragraphs (1) and (2).

28 (e) This section shall apply in a case in which a person was  
29 under 21 years of age at the time of the commission of an offense  
30 as to which this section is made applicable if that offense was  
31 committed prior to March 7, 1973.

32 (f) In an action or proceeding based upon defamation, a court,  
33 upon a showing of good cause, may order the records sealed under  
34 this section to be opened and admitted into evidence. The records  
35 shall be confidential and shall be available for inspection only by  
36 the court, jury, parties, counsel for the parties, and any other person  
37 who is authorized by the court to inspect them. Upon the judgment  
38 in the action or proceeding becoming final, the court shall order  
39 the records sealed.

1 (g) A person who is 26 years of age or older and petitions for  
2 an order sealing a record under this section may be required to  
3 reimburse the court for the actual cost of services rendered, whether  
4 or not the petition is granted and the records are sealed or  
5 expunged, at a rate to be determined by the court, not to exceed  
6 one hundred fifty dollars (\$150), and to reimburse the county for  
7 the actual cost of services rendered, whether or not the petition is  
8 granted and the records are sealed or expunged, at a rate to be  
9 determined by the county board of supervisors, not to exceed one  
10 hundred fifty dollars (\$150), and to reimburse any city for the  
11 actual cost of services rendered, whether or not the petition is  
12 granted and the records are sealed or expunged, at a rate to be  
13 determined by the city council, not to exceed one hundred fifty  
14 dollars (\$150). Ability to make this reimbursement shall be  
15 determined by the court using the standards set forth in paragraph  
16 (2) of subdivision (g) of Section 987.8 and shall not be a  
17 prerequisite to a person's eligibility under this section. The court  
18 may order reimbursement in a case in which the petitioner appears  
19 to have the ability to pay, without undue hardship, all or any portion  
20 of the cost for services established pursuant to this subdivision.

21 ~~SEC. 2. Section 781 of the Welfare and Institutions Code is~~  
22 ~~amended to read:~~

23 ~~781. (a) (1) (A) In any case in which a petition has been filed~~  
24 ~~with a juvenile court to commence proceedings to adjudge a person~~  
25 ~~a ward of the court, the court shall, at the time the jurisdiction of~~  
26 ~~the juvenile court has terminated as to the person, order all records,~~  
27 ~~papers, and exhibits in the person's case in the custody of the~~  
28 ~~juvenile court sealed and destroyed, including the juvenile court~~  
29 ~~record, minute book entries, and entries on dockets, and any other~~  
30 ~~records relating to the case in the custody of the other agencies,~~  
31 ~~entities, and officials as are named in the order. Once the court has~~  
32 ~~ordered the person's records sealed and destroyed, the proceedings~~  
33 ~~in the case shall be deemed never to have occurred, and the person~~  
34 ~~may properly reply accordingly to any inquiry about the events,~~  
35 ~~the records of which are ordered sealed.~~

36 ~~(B) The court shall send a copy of the order to each agency,~~  
37 ~~entity, and official named therein, directing the agency or entity~~  
38 ~~to seal and destroy its records. Each agency, entity, and official~~  
39 ~~shall seal and destroy the records in its custody as directed by the~~  
40 ~~order, shall advise the court of its compliance, and thereupon shall~~

1 seal the copy of the court's order for sealing of records that it, he,  
2 or she received.

3 (C) In any case in which a ward of the juvenile court is subject  
4 to the registration requirements set forth in Section 290 of the  
5 Penal Code, a court, in ordering the sealing of the juvenile records  
6 of the person, shall also provide in the order that the person is  
7 relieved from the registration requirement and for the destruction  
8 of all registration information in the custody of the Department of  
9 Justice and other agencies, entities, and officials.

10 (D) Notwithstanding any other law, the court shall not order the  
11 person's records sealed in any case in which the person has been  
12 found by the juvenile court to have committed an offense listed in  
13 subdivision (b) of Section 707 when he or she had attained 14  
14 years of age or older.

15 (2) In any case in which a person is cited to appear before a  
16 probation officer or is taken before a probation officer pursuant to  
17 Section 626, or in any case in which a minor is taken before any  
18 officer of a law enforcement agency, and no petition is filed, the  
19 probation department or law enforcement agency shall, at the time  
20 at which the decision was made to not refer the person to the  
21 probation department or to the district attorney's office, seal all  
22 records, including records of arrest, relating to the person's case,  
23 in the custody of the probation department and law enforcement  
24 agency. Once the records have been sealed, the events shall be  
25 deemed never to have occurred, and the person may properly reply  
26 accordingly to any inquiry about the events, the records of which  
27 are sealed. The probation department or law enforcement agency  
28 shall destroy the records sealed pursuant to this paragraph when  
29 the person who is the subject of the record reaches 18 years of age.

30 (3) The person who is the subject of records sealed pursuant to  
31 this section may petition the superior court to permit inspection  
32 of the records by persons named in the petition, and the superior  
33 court may so order. Otherwise, except as provided in subdivision  
34 (b), the records shall not be open to inspection.

35 (b) In any action or proceeding based upon defamation, a court,  
36 upon a showing of good cause, may order any records sealed under  
37 this section to be opened and admitted into evidence. The records  
38 shall be confidential and shall be available for inspection only by  
39 the court, jury, parties, counsel for the parties, and any other person  
40 who is authorized by the court to inspect them. Upon the judgment

1 in the action or proceeding becoming final, the court shall order  
2 the records sealed.

3 (e) ~~(1) Subdivision (a) does not apply to Department of Motor  
4 Vehicle records of any convictions for offenses under the Vehicle  
5 Code or any local ordinance relating to the operation, stopping  
6 and standing, or parking of a vehicle where the record of any such  
7 conviction would be a public record under Section 1808 of the  
8 Vehicle Code. However, if a court orders a case record containing  
9 any such conviction to be sealed under this section, and if the  
10 Department of Motor Vehicles maintains a public record of such  
11 a conviction, the court shall notify the Department of Motor  
12 Vehicles of the sealing and the department shall advise the court  
13 of its receipt of the notice.~~

14 ~~(2) Notwithstanding any other law, subsequent to the  
15 notification, the Department of Motor Vehicles shall allow access  
16 to its record of convictions only to the subject of the record and  
17 to insurers which have been granted requestor code numbers by  
18 the department. Any insurer to which such a record of conviction  
19 is disclosed, when such a conviction record has otherwise been  
20 sealed under this section, shall be given notice of the sealing when  
21 the record is disclosed to the insurer. The insurer may use the  
22 information contained in the record for purposes of determining  
23 eligibility for insurance and insurance rates for the subject of the  
24 record, and the information shall not be used for any other purpose  
25 nor shall it be disclosed by an insurer to any person or party not  
26 having access to the record.~~

27 ~~(3) This subdivision shall not prevent the sealing of any record  
28 that is maintained by any agency or party other than the Department  
29 of Motor Vehicles.~~

30 ~~(4) This subdivision shall not affect the procedures or authority  
31 of the Department of Motor Vehicles for purging department  
32 records.~~

33 ~~(d) If the subject of the record was found to be a person  
34 described in Section 602 because of the commission of an offense  
35 listed in subdivision (b) of Section 707 when he or she was 14  
36 years of age or older, the record shall not be destroyed. Any other  
37 agency in possession of sealed records may destroy its records five  
38 years after the record was ordered sealed.~~

39 ~~(e) This section shall not permit the sealing of a person's  
40 juvenile court records for an offense where the person is convicted~~

1 of that offense in a criminal court pursuant to the provisions of  
2 Section 707.1. This subdivision is declaratory of existing law.

3 (f) (1) On and after January 1, 2015, each court and probation  
4 department shall ensure that information regarding the eligibility  
5 for and the procedures to request the sealing and destruction of  
6 records pursuant to this section shall be provided to each person  
7 who is either of the following:

8 (A) A person for whom a petition has been filed on or after  
9 January 1, 2015, to adjudge the person a ward of the juvenile court.

10 (B) A person who is brought before a probation officer pursuant  
11 to Section 626.

12 (2) The Judicial Council shall, on or before January 1, 2015,  
13 develop informational materials for purposes of paragraph (1) and  
14 shall develop a form to petition the court for the sealing and  
15 destruction of records pursuant to this section. The informational  
16 materials and the form shall be provided to each person described  
17 in paragraph (1) when jurisdiction is terminated or when the case  
18 is dismissed.

19 ~~SEC. 3.~~

20 *SEC. 2.* Section 903.3 of the Welfare and Institutions Code is  
21 amended to read:

22 903.3. (a) A person who is 26 years of age or older shall, unless  
23 indigent, be liable for the cost to the county and court for any  
24 investigation related to the sealing and for the sealing of any  
25 juvenile court or arrest records pursuant to Section 781 pertaining  
26 to that person.

27 (b) In the event a petition is filed for an order sealing a record,  
28 a person who is 26 years of age or older may be required to  
29 reimburse the county and court for the actual cost of services  
30 rendered, whether or not the petition is granted and the records are  
31 sealed or expunged, at a rate to be determined by the county board  
32 of supervisors for the county and by the court for the court, not to  
33 exceed one hundred fifty dollars (\$150). Ability to make this  
34 reimbursement shall be determined by the court using the standards  
35 set forth in paragraph (2) of subdivision (g) of Section 987.8 of  
36 the Penal Code and shall not be a prerequisite to a person's  
37 eligibility under this section. The court may order reimbursement  
38 in any case in which the petitioner appears to have the ability to  
39 pay, without undue hardship, all or any portion of the cost for  
40 services.

1 (c) Notwithstanding subdivision (a), the father, mother, spouse,  
2 or other person liable for the support of the minor, the person  
3 himself or herself if he or she is an adult, the estate of that person,  
4 or the estate of the minor, shall not be liable for the costs described  
5 in this section if a petition to declare the minor a dependent child  
6 of the court pursuant to Section 300 is dismissed at or before the  
7 jurisdictional hearing.

8 (d) Any determination of amount made by a court under this  
9 section shall be valid only if either (1) made under procedures  
10 adopted by the Judicial Council or (2) approved by the Judicial  
11 Council.

12 ~~SEC. 4.~~

13 *SEC. 3.* If the Commission on State Mandates determines that  
14 this act contains costs mandated by the state, reimbursement to  
15 local agencies and school districts for those costs shall be made  
16 pursuant to Part 7 (commencing with Section 17500) of Division  
17 4 of Title 2 of the Government Code.